

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CHARLENE ROYCE, as parent and guardian of  
TIFFANY M. WHEELER, a Minor,

Plaintiff,

v.

THOMAS R. WHEELER, LISA W. HUZELLA,  
and MICHAELON A. WRIGHT, each individually  
and as acting successor trustee of the Thomas M.  
Wheeler Revocable Trust, u/a dated April 9, 1986,  
as Amended and Restated, 43 WEST 64TH  
STREET LLC, a Michigan corporation, and  
WHEELER FAMILY FOUNDATION, INC., a  
Delaware nonprofit corporation,

Defendants,

- and -

KRYSTAL WHEELER,

Nominal Defendant.

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ELECTRONICALLY FILED

Civil Action No.: 07-CV-10968 (RWS)

**NOTICE OF MOTION**


PLEASE TAKE NOTICE, that upon the annexed affidavits of Amy Stewart Sanders, Donald R. Brooks, Robert T. Howard and Patrick T. Duerr, each dated March 14, 2008; and the Affidavit of Patryk J. Chudy, dated March 14, 2008, to be filed under seal; and for the reasons set forth in the accompanying Memorandum of Law In Support of Motion to Dismiss, Defendants Thomas R. Wheeler, Lisa W. Huzella, Michaelon A. Wright, 43 West 64th Street LLC, and Wheeler Family Foundation, Inc. ("Defendants"), by their attorneys Heller Ehrman LLP, will move this Court before the Honorable Robert W. Sweet, United States District Court Judge at the United States Courthouse, 500 Pearl Street, New York, New York, on a date and time to be determined by the Court, for an Order dismissing the Complaint with prejudice for lack of subject matter jurisdiction,

pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

DATED: New York, New York  
March 14, 2008

Respectfully submitted,  
  
HELLER EHRMAN LLP

By: \_\_\_\_\_

  
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